The next objection related to the attachment of fishing tackle provided for in Section 18. Mr. Raman Tampi observed that the seizure of fishing tackle would deprive the fisherman of his means of living and that the provision would result in hardship to the poor fishermen. Mr. Anantanarayana Aiyar said that, if the instrument used for fishing was not seized, a valuable piece of evidence would be lost and that the case against the man would not end in conviction. After some further discussion, it was agreed that if in the course of working the provision any difficulty arose, the necessary amendment might be made to the Section then.

The consideration of the Bill over, Mr. Subba Aiyar moved that the Bill be finally read and passed, the operation of rule 51 being suspended.

Seconded by Dr. Kunjan Pillai.

Carried.

THE REVENUE RECOVERY REGULATION AMENDMENT BILL.

Mr. Subba Aiyar in presenting the report of the Select Committee on the Revenue Recovery Regulation Amendment Bill moved that the Report and the Bill be taken up for consideration at once, rule 47 requiring three weeks to elapse after the publication of the Report being suspended.

Seconded by Mr. Anantanarayana Aiyar.

Mr. G. Parameswaran Pillai:

"This being an important measure, the consideration of the Bill should be taken up after the lapse of three weeks from the date of its publication, so that there may be sufficient time for the public to know the changes made by the Select Committee. I therefore beg to oppose the motion to take up the consideration of the Bill just now.

Mr. John Nidiry:—

"I support my friend Mr. Parameswaran Pillai."

President:—

"How long is it since it was published?"

Mr. G. Parameswaran Pillai:—

"It is published in yesterday's Gazette."

Mr. Parameswara Aiyar:—

"It is 15 days since it was published in English."

Mr. Subba Aiyar:—

"When the Bill was introduced the main point of opposition was that in the case of attachment of movables for arrears of revenue there must be a demand notice in the first instance, and that, some time after the issue of that notice, attachment should be made. In other words, it is not desirable that the movables should be attached immediately after the demand is made, as it may not be possible for the defaulter to find money at once. This was what Mr. Kayalam Parameswaran Pillai said. He suggested that unless some time was given to the defaulter to make the payment it would cause hardship. The second objection was that, in the case of sale of immovable property, the Peishkar's permission should be insisted on and that if the Peishkar made any delay he must be found fault with. This was suggested by Mr. G. Parameswaran Pillai. These were the two points on which the whole controversy centred. As regards the first objection, the Select Committee considered it and made the necessary modification as suggested by Mr. Kayalam Parameswaran Pillai. Thus the most vital objection to the Bill at any rate has been removed. The other objection is a minor one. I do not know what useful purpose will be served by deferring the consideration of the Bill. All that can possibly be said against the Bill has been said and all that is possible has been done by the Select Committee. In these circumstances, I think it is not desirable to postpone the consideration of the Bill."

Mr. Subba Aiyar's motion was put to the vote and carried.

Clause 1.

Mr. G. Parameswaran Pillai in moving that Clause 1 be deleted said:—

"My amendment is to the effect that Section 6 in the Regulation should be retained. This Section provides for a written demand being served on the defaulter, who may pay the arrears or raise any objection. This objection has to be enquired into and orders passed, before the Revenue authorities proceed to distrain movable property. It is also provided that the objector may appeal and the attachment may be stayed by the appellate authority. That is what Section 6 says. This has been deleted and the Bill says that a demand notice may be issued fixing a period of 7 days within which the defaulter should pay the arrears or raise his objection if any, and the Tahsildar may in his discretion stay the proceedings. There is nothing to show that he must do it. The Committee have recognised the principle that immediate distraint may cause hardship to the defaulter,

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especially if he has got any objections to the claim of arrears. But there is no provision for making an enquiry into the objections as in the existing Regulation. The principle has been recognised in the case of attachment of immovable property (*vide* Clause 4) and therefore it is only fair that the existing right of the people should not be interfered with. Hence the same provision ought to be made in regard to movable property also. The existing Regulation goes further and says that an order shall be passed after hearing the objection and in the regular course an appeal also is allowed against such orders. I do not see why any distinction should be made with reference to this particular matter so far as movables are concerned. Therefore, my amendment is that Section 6, the principle of which has been acknowledged, should be retained."

Mr. John Nidiry:—

"I second the amendment. I beg to bring to the notice of the Council that there is a large amount of arrear in the case of transfers of registry and Poramboke enquiries, so much so that it is very difficult for a ryot to know what amount he has to pay, whether he is the actual pattadar, and so forth. There is a lot of confusion in regard to these matters. I am glad that Government are taking steps to rectify all these things. Unless that is done, the present provision will bring in real hardship to the ryots. I think the existing Section may be retained".

Mr. Subba Aiyar:—

"With reference to the objection that Section 6 should be retained, I may say that the main provision of that Section is contained in Clause 1 of the Bill. Mr. Parameswaran Pillai's objection is that only seven days are allowed to the defaulter. What the Section says is that the time allotted shall not be less than seven days. In the next place, my friend suggests that the objections should be heard and decided. I do not think there is any serious objection to this. When it is said that a man may present an objection, it means that the Tahsildar should consider it. It is next suggested that if the man is dissatisfied with the Tahsildar's order he should be allowed to prefer an appeal. Here there is no difference made in the Bill between movable and immovable property."

Mr. G. Parameswaran Pillai:—

"What I urge is that in the case of immovable property the Select Committee have recognised the necessity for an enquiry into the objections raised. There is no provision for an enquiry into the objections and for an appeal in the case of movable property."

Mr. Subba Aiyar:—

"That may be made clear if necessary. As for appeal, I do not think that we have made any distinction between immovable property and movable property. As for the argument that persons other than registry holders may be liable, so far as the Regulation is concerned the only person the Government are to take into account is the Pattadar. If there is any grievance, there is Section 50 in the Regulation which provides for revision of the orders of the Tahsildar or the Peishkar. What is the use of an appeal? This has been taken away in the case of immovable property and it is proposed to be taken away in the case of movable property as well."

Mr. G. Parameswaran Pillai:—

"So far as I have been able to understand Mr. Subba Aiyar, the provisions in Section 6 are practically included in Clause 1, except in so far as the provision regarding the appeal is concerned. If that be the case, my only point is that the right of appeal which has been in existence for the last several years should not be taken away. There is absolutely no justification to interfere with this right. No reasons have been brought forward in this Council to convince us that, merely because there is the provision for an appeal against the orders of the Tahsildar, any practical difficulty has been caused in the realisation of revenue."

The amendment was put to the vote and lost.

CLAUSE 2.

Mr. G. Parameswaran Pillai moved that the words "in the manner prescribed in the Code of Civil Procedure for serving summonses on defendants" be substituted for "some adult male member of his family at his usual place of abode, or on his authorised agent, or if service as aforesaid is not practicable, by affixing the copy on a conspicuous part of such place" in lines 4, 5 and 6 in sub-section (ii) of sub-clause (1). He said:—

"The mode of service of demand notice now prescribed is somewhat different from what is provided for in Section 6 of the existing Regulation. Section 6 says that the service of the demand shall be in the manner prescribed in the Code of Civil Procedure

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for serving summonses on defendants. The present Bill would put it as "on the defaulter or some adult male member of his family or his agent or by affixing the copy on a conspicuous part of his house." So far as the provision in the Civil Procedure Code is concerned, it is only in case personal service is not found practicable, that process should be served on the adult member. There can be no particular reason why any difference should be made in the procedure to be adopted here."

Seconded by Mr. John Nidiry.

Mr. Subba Aiyar:—

"With reference to this amendment, I may say that the Civil Procedure Code prescribes four modes for service of process, *i. e.*, serving it on the person concerned, upon his agent or upon any adult member of his family, or affixing it to the house. The Select Committee have made this clear. Instead of saying vaguely that the provisions of the Civil Procedure Code should apply, all the modes mentioned therein have been summarised here. If my friend seriously thinks that the wording in his amendment should be adopted, by all means, let it be done."

Mr. G. Parameswaran Pillai:—

"According to the Civil Procedure Code, the service of process can be effected on the adult member only if service on the party concerned is not practicable, but, here, it may be sufficient if the service is made on some adult member."

Mr. Subba Aiyar:—

"This would be sufficiently legal service."

President:—

"I do not think there is any objection to accept the amendment."

The amendment was accepted by the Council.

Mr. G. Parameswaran Pillai moved that the word "fourteen" be substituted for "seven" in line 2 of sub-section (iii).

Seconded by Mr. John Nidiry.

Mr. Subba Aiyar:—

"The expression "not less than seven days" is used in order to give a discretion to the officer. It is open to him to give fourteen days' time or one month's time according to the circumstances of the case."

President:—"The expression "not less than seven days" does not mean that it is not going to be more. But Mr. Parameswarn Pillai wants to make fourteen days as the minimum."

Mr. G. Parameswaran Pillai:—

"Fourteen days cannot be said to be a long period."

Mr. Subba Aiyar:—"The officer should have some discretion in these matters. He may be given more than seven days' time."

President:—"True, but time counts in these matters."

The amendment was put to the vote and lost.

Mr. G. Parameswaran Pillai moved that the word "shall" be substituted for the words "may in his discretion" in line 6 of sub-section (iii).

He said:—"The object of the amendment is that until the objection petition is disposed of the distraint should not be made."

Seconded by Mr. John Nidiry.

Mr. Subba Aiyar:—"The objection may be frivolous or worth considering. In such cases, the officer hearing the objection may be given a discretion to see whether the attachment should be stayed until the disposal of the petition or whether he can proceed with it."

The amendment was put to the vote and lost.

Mr. G. Parameswaran Pillai moved that the words "and shall inquire into the objection and record a decision" be inserted at the end of sub-section (iii)

The Council accepted the amendment.

Mr. G. Parameswaran Pillai moved that the following be added as sub-section (iv):—

"An appeal shall lie from such decision to the Division Peishkar within 30 days from the date thereof."

He said:—

"Sub-section (4) of Section 6 in the existing Regulation contains provision for an appeal from the orders passed on the objection. The amending Bill does not contain any such provision. I do not see why that provision should not be added."

Seconded by Mr. John Nidiry.

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Mr. Subba Aiyar: —

"I certainly object to the provision as to appeal. The only question is whether the amount is due on a particular patta. As I said at the outset, if there is anything serious, there is the remedy by way of a revision petition under Section 50. Further, if there is no arrear, there is the remedy of a civil suit."

Mr. G. Parameswaran Pillai:—

"For the last several years, this right of appeal has been in existence. There are no figures to show that a large precentage of the appeals has been frivolous and that they have been rejected. If the right of appeal is taken away it is clearly an infringement of the peoples' right."

The amendment was put to the vote and lost.

CLAUSE 4.

Mr. G. Parameswaran Pillai moved that the words "on the defaulter in the manner prescribed in the Code of Civil Procedure for serving summonses on defendants" be substituted for "by delivering a copy to the defaulter, or to some adult member of his family, at his usual place of abode, or to his authorised agent, or by affixing a copy thereof on some conspicuous part of his last-known residence, or on some conspicuous part of the land about to be attached" in sub-section (2) of Section 23 A.

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. G. Parameswaran Pillai moved that the following be added after sub-section (3): —

"An appeal shall lie to the Division Peishkar within 30 days from the date of such decision."

He said: —

"I would strongly recommend that so far as at least immovable property is concerned, the Tahsildar's order should be liable to appeal."

President: —

"The Regulation provides for a regular appeal against sale."

Mr. G. Parameswaran Pillai:—

"This is about distraint itself in the very first instance."

President:—

"The sale is only a natural consequence of distraint. Your object will be served by setting aside the sale. As a matter of fact, sales are set aside on appeal and on revision. I have set aside a number of sales in my revisionary capacity. That right remains."

The motion fell through for want of seconding.

The consideration of the Bill over, Mr. Subba Aiyar moved that the operation of rule 51 be suspended, so that the Bill might be finally read and passed.

Seconded by Dr. Kunjan Pillai.

Mr. G. Parameswaran Pillai:—

"I beg to oppose the motion. I think that the Bill may be read and passed at the next Council meeting".

Mr. Subba Aiyar's motion was put to the vote and carried.

Mr. Subba Aiyar moved that the Bill be finally read and passed.

Seconded by Dr. Kunjan Pillai.

Carried.

THE FOREST REGULATION AMENDMENT BILL.

Mr. Subba Aiyar moved that the Forest Regulation Amendment Bill be finally read and passed.

Seconded by Mr. Raman Menon.

Carried.

THE CRIMINAL PROCEDURE CODE AMENDMENT BILL.

Mr. Subba Aiyar moved that the Criminal Procedure Code Amendment Bill be finally read and passed.

Seconded by Mr. Raman Menon.

Carried.

THE GOVERNMENT LAND ASSIGNMENT BILL.

Mr. Subba Aiyar moved that the Government Land Assignment Bill be finally read and passed.

Seconded by Mr. Rajaraja Varma.

Carried.

The Council adjourned for lunch at 2-15 P. M. and met again at 3 P. M.

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